

REMARKS

The Office Action dated December 18, 2002, has been carefully considered. In response thereto, the present application has been amended in a manner that is believed to place it into condition for allowance. Accordingly, reconsideration and withdrawal of the outstanding Office Action and issuance of a Notice of Allowance are respectfully requested.

In the present Office Action, the Examiner has objected to the drawing, abstract, specification and numbering of the claims. The Examiner has also rejected claims 15-28 under 35 U.S.C. § 112, first paragraph, and rejected claims 15 and 19-28 under 35 U.S.C. § 103(a). As discussed below, Applicant has addressed each of those objections and rejections.

Drawing Objections:

With regard to the drawing, a "FIG. 1" label has been added in response to the Examiner's objection. That label replaces the "1 / 1" label that had been used on the drawing when it was prepared and submitted to the international patent application examining authority. Applicant submits that the revised figure label conforms to standard practice.

The Examiner also objected to the drawing because the tensioning or reeling mechanism recited in claims 26 and 27 is not shown. Applicant respectfully disagrees. As noted on page 6, third paragraph, of the specification, the "[w]inding and retaining means 11 may be included on either or both guideways to store the guideways when not in use." The retaining means is further described on page 4, second paragraph, of the specification as "[t]he retaining means may comprise an automatic reeling mechanism for the guideway." Moreover, the "tensioning means" is described on page 3, fifth full paragraph, of the specification in connection with the reeling mechanism. Thus, the winding and reeling devices recited in claims 26 and 27, respectively, are disclosed in the specification and indexed, in one embodiment, to reference number 11. The drawing (FIG. 1) includes a reference number 11 indicating where the "winding and retaining means" are located relative to the guideways. Thus, the drawing shows the tensioning or reeling mechanism recited in claims 26 and 27.

The Examiner also objected to the drawing because the backboard and target recited in claims 28 are not shown. Applicant is submitting herewith a proposed drawing correction to show the target device indicated by reference number 12. No new matter is being

introduced (see, e.g., page 4, eighth paragraph, and page 7, last sentence of the specification). Acceptance of the proposed drawing changes is hereby requested.

Specification Objections:

With regard to the objections of pages 5 and 6 of the specification, Applicant submits herewith corrected portions of pages 5 and 6. Specifically, the sole paragraph on page 5 was amended by updating the language describing the drawing (i.e., FIG. 1) and deleting the line arrow. Page 6 was amended by changing “3and” to read --3 and-- per the Examiner’s suggestion.

With regard to the objection to the ABSTRACT, Applicant includes herewith an ABSTRACT without the objectionable legal terms. Specifically, the terms “comprising” and “means” were deleted.

Accordingly, Applicant respectfully submits that the amended pages 5 and 6 of the text and the amended ABSTRACT overcome the Examiner’s objection of the specification.

Claim Objections:

The Examiner objected to the numbering of the claims and renumbered the claims 15-28 sua sponte. Applicant acknowledges the renumbering of the claims. For clarity, the following remarks concerning the claim numbering are provided.

Originally, the above-cited international application, which forms the basis of the present application, included claims 1-24. During prosecution of the international application, amended sheets were filed containing claims 1-14 in place of claims 1-24. That amended application was then filed in the PTO, which was the designated/elected office under 35 U.S.C. § 371 for the present application. Thus, claims 1-14 of the amended international application became the as-filed claims of the present application.

The present application was filed with a Preliminary Amendment. In the Preliminary Amendment, claims 1-24 were cancelled and claims 25-38 were added. New claims 25-28 should have been numbered 15-28, as noted by the Examiner in the present Office Action, because the as-filed claims were numbered 1-14. Thus, claims 15-28 are pending in the present application.

Claim Rejections:

As noted previously, the Examiner has rejected claims 15-28 under 35 U.S.C. § 112, first paragraph, as containing subject matter that was not described in the specification so as to enable one of ordinary skill in the art to make and/or use the invention. The Examiner questions (1) How is the launch mechanism made?; (2) What is the buffering and/or deflector means?; (3) What is the tension mechanism and how do you use it?; (4) How is the inclination varied?; (5) Where is the reeling mechanism and how is it used?; and (6) Where is the backboard or target?

With regard to the launch mechanism, that term is not used in the specification. However, on page 6, second paragraph, first sentence, of the specification, it states that a player stands at the point where the guideways are connected to the ground by pegs and strikes the ball with a golf club. Thus, the ball is “launched” (or lofted) in exactly the same way as a golfer “launches” (or lofts) a golf ball during normal play (with the exception that the ball of the present invention is attached or connected to a line). As noted on page 6, fourth paragraph, of the specification, the ball may be positioned on a tee off mat before it is struck. Those mats are well known in the art of practice golf equipment. Therefore, Applicant respectfully submits that the “launch mechanism” is described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

With regard to the buffering and/or deflector means, that structure is referred to on page 4, last paragraph, of the specification. As explained in other parts of the specification, the length of the inelastic line is less than a distance between the two guideways at some point along the length of the guideways. Thus, the distance between the guideways at that point is limiting in relation to the length of the inelastic line. After being struck by a player, the inelastic line is slowed and then eventually stops by the change in momentum imposed on the inelastic line by the guideways at the point where the distance between the guideways is nearly the same as the length of the inelastic line. Once the inelastic line stops, the guideways rebound from their inwardly inflected positions, as shown in FIG. 1, to their initial positions (the amount of inward deflection determined by the tension in the guideways). That rebounding action, along with gravity, propels the inelastic line and the attached ball back towards its starting position. Also, a target or backboard may be placed between the two stable supports as described on page 7, last sentence, of the specification, or at some location

remote from the lower end of the guideways as described on page 4, eighth paragraph, of the specification. That is, the ball may deflect off the target or backboard, thereby changing the momentum and direction of the ball and the inelastic line. Therefore, Applicant respectfully submits that the buffering and/or deflector means, as shown in FIG. 1 and described in the accompanying text as noted above, is described in such a way as to enable one skilled in the art to make and/or use the invention.

With regard to the tension mechanism and its operation, the specific structure is described on page 3, fifth paragraph, of the specification, and shown, in one embodiment of the invention, on FIG. 1 by reference number 11. As described in the specification, the guideways can be maintained taut between the ground anchorages and the top of the stable supports by a tensioning device. In one embodiment of the invention, the tensioning device is a simple reel attached near the stable support (or near the anchorages) as shown in FIG. 1. Such reels are well known and simply comprise a mechanism that enables the user to shorten or lengthen the effective length of a line thereby varying the tension in the line. Applicant submits that one of ordinary skill in the art would appreciate that a standard fishing reel and line could be modified to achieve the function of the tension mechanism of the present invention. Therefore, Applicant respectfully submits that the specification describes the tension mechanism in such a way as to enable one skilled in the art to make and/or use the invention.

With regard to how the inclination is varied, that structure and function are described on page 6, first paragraph (lines 5 and 6), of the specification. Specifically, the specification describes that the height of each stable support, held vertical by assistance of metal supports, is adjustable. Adjusting the height of the top of the stable supports is one method of adjusting the inclination of the guideways in the embodiment shown in FIG. 1. Therefore, Applicant respectfully submits that the specification describes how to change the inclination of the guideways in such a way as to enable one skilled in the art to make and/or use the invention.

With regard to where the reeling mechanism is located on the apparatus and how it is used, please refer to Applicant's remarks above concerning the tensioning mechanism.

With regard to the location of the backboard or target, please refer to Applicant's remarks above concerning the buffering and/or deflector means and also refer to the modified FIG. 1 enclosed herewith.

The Examiner has rejected claims 15 and 19-28 under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,042,491 to *Dixon* in view of U.S. Patent No. 3,630,521 to *Lingbeek*. For the reasons noted below, Applicant respectfully traverses the Examiner's rejection on the basis of those two patent references.

Dixon discloses an apparatus for practicing baseball swings having a ball formed with an internal passageway mounted to a pair of lines which can be separated to propel the ball towards the person using the apparatus. *Lingbeek* discloses an apparatus for practicing baseball swings in which a ball is attached to an elastic line stretched between to spaced apart horizontal guideways supported by spaced apart vertical supports. Applicant submits that those references do not render the invention recited in claims 15 and 19-28 of the present application unpatentable because there is no teaching or motivation to combine them to come up with the present invention.

There are obvious distinctions between the reciprocating means described in *Lingbeek* and that of the invention claimed in the subject application. For example, the *Lingbeek* reciprocating means is positioned between two spaced apart horizontal guideways that are parallel (i.e., they do not diverge). Also, the line stretched between those guideways and attached to the ball is elastic. Applicant submits that those spaced apart guideways would discourage their use as a device for practicing ball-lofting swings (e.g., golf swings) because the ball would be suspended above the ground by the elastic line (the elastic line is stretched taut).

Further, the elastic line in *Lingbeek* converts kinetic energy of the ball after it is struck by a bat into potential energy which is then used to propel the ball back to the player. In the present invention, if the substantially inelastic line were replaced with an elastic line, as disclosed in *Lingbeek*, the advantage of returning the ball in a controlled manner to the player would be destroyed because the inelastic line may never become limiting like it does in the preferred embodiment of the present invention. Further, in the embodiment of the present invention, the diverging guideways in combination with the inelastic line provide the function of returning the ball to its original position, which is different than the function of the guideways and elastic line used in *Lingbeek*. Therefore, one of ordinary skill in the art would not have been motivated to use *Lingbeek* to modify the teaching in *Dixon* to come up with the present invention. Certainly, one of ordinary skill in the art would not have used *Lingbeek* to

modify *Dixon* in order to, as the Examiner states, facilitate the “equivalent movement of the ball along the guideways” as taut in the present invention. Accordingly, Applicant submits that there is no teaching or motivation to combine *Dixon* and *Lingbeek* to come up with the invention recited in claims 15 and 19-28.

The Examiner has also rejected claims 16-18 under 35 U.S.C. § 103(a), as being unpatentable over *Dixon* in view of *Lingbeek* or further in view of U.S. Patent No. 3,754,761 to *Pruss*. For the reasons noted below, Applicant respectfully traverses the Examiner’s rejection on the basis of that combination of patent references.

Pruss discloses an apparatus for practicing golf swings having an inclined guideway secured on one end to the ground by a peg and secured on its other end to the top of a support. In *Pruss*, however, there is no disclosure of a pair of spaced apart diverging guideways and no disclosure of an inelastic reciprocating line. Thus, *Pruss*, in combination with *Dixon* and/or *Lingbeek*, does not disclose or teach the unique combination of spaced apart guideways and inelastic line with attached ball spanned between the guideways for practicing ball-lofting swings.

For the reasons noted above, Applicant respectfully requests that the Examiner’s objections and rejections of the disclosure and the pending claims be withdrawn and a Notice of Allowance be issued.

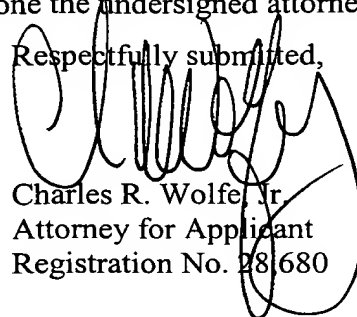
Please charge any shortage or credit any overpayment of fees to Deposit Account No. 23-2185 (115692-00101). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, the Applicant hereby petitions under 37 C.F.R. § 1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

Finally, attached hereto is a marked-up version of the changes made to the claims by the current Amendment. The attached page is captioned “VERSION WITH MARKINGS TO SHOW CHANGES MADE.”

Serial Number: 09/980,092
Group Art Unit: 3711

If there are any questions relating to this amendment or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney.

Respectfully submitted,



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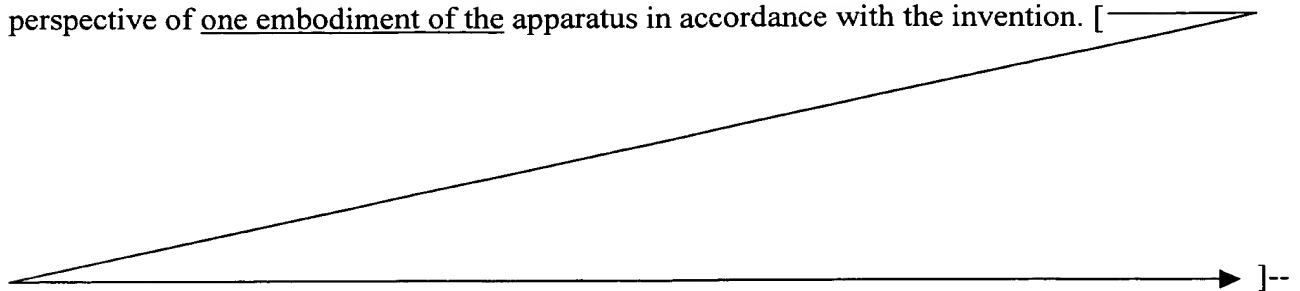
Date: May 14, 2003

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

On page 5:

--The invention will now be described by way of example only with reference to the [following diagrammatic] drawing in which the sole [Figure] FIG. 1 is a [side view in] perspective of one embodiment of the apparatus in accordance with the invention. [



On page 6:

--When the training aid is in use, a player stands near the lowermost end of the guideways 1 at their point of connection to the ground pegs [3and] 3 and strikes the ball 6 with a golf club. The starting positions of the ball 6 and line 7 are shown in full line in the drawing. The force of the strike sends the line 7 and the ball 6 along the guideways 1 towards the limiting position shown in broken line 9. Once the distance between the ends of the line 7 becomes limiting in relation to the distance between the guideways, the line 7 slows down, stops and is deflected back along the guideways under gravity to return to the player who can then strike the ball again.--